

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 07-20168-13-JWL
)	
HAROLD WALLACE,)	
)	
Defendant.)	
)	
_____)	

MEMORANDUM AND ORDER

This matter comes before the Court on defendant's *pro se* motion for reconsideration (Doc. # 1947) of the Court's denial of his motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A). The Court **denies** the motion.

In its Memorandum and Order of July 8, 2020, in which the Court concluded in its discretion that defendant had not met his burden to show that extraordinary and compelling circumstances warranted his immediate release from prison, the Court cited the following reasons: defendant's hypertension is treated with medication, and according to the CDC, it has not been established that hypertension causes an increased risk of severe illness from the COVID-19 virus; the Bureau of Prisons has implemented measures in defendant's facility, FCI Lewisburg, and in other facilities to control outbreaks, particularly with respect to higher-risk inmates; there had not been a single reported case of this virus among inmates at Lewisburg; that defendant therefore had not shown an increased risk of serious

medical harm, and the Court was not prepared to order the release of any and all inmates, solely because of the pandemic, in the absence of such a particularized risk; and defendant still had nearly six years remaining on his term of imprisonment, and the Government maintains a valid public interest in incarcerating him in accordance with the terms of his lawful sentence.

Defendant argues that the Court should reconsider its prior decision because there has now been an outbreak of the COVID-19 virus among inmates at his facility. The Bureau of Prisons website reports 33 “inmates positive” and 52 “inmates recovered” at the facility as of this date (out of a total population of 1294 inmates). As defendant notes, however, the Bureau has taken measures to combat the outbreak, including ordering a lockdown and suspending visitation. The Court is not persuaded that conditions at the facility are so dire that inmates should be released without a showing of a particularized risk.

Defendant also repeats his prior arguments that he is a non-violent offender, has served over half of his sentence, and has completed programs in prison. The Court considered such arguments in denying his motion originally, however. The Court again concludes that defendant has failed to satisfy his burden to show that extraordinary and compelling circumstances warrant his immediate release, and the Court therefore denies the motion for reconsideration.¹

¹ Defendant also states in a footnote that his hypertension medication affects his kidneys and weakens his immune system, but he has not provided any support for those claims. Nor has he shown that the medication increases his risk of serious harm from the virus.

IT IS THEREFORE ORDERED BY THE COURT THAT defendant's motion for reconsideration (Doc. # 1947) of the Court's denial of his motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A) is hereby **denied**.

IT IS SO ORDERED.

Dated this 20th day of August, 2020, in Kansas City, Kansas.

s/ John W. Lungstrum

John W. Lungstrum

United States District Judge